

THE STATE OF NEW HAMPSHIRE
SUPERIOR COURT
HILLSBOROUGH COUNTY
SOUTHERN DISTRICT

I, Marshall A. Buttrick, Clerk of the Superior Court of the State of New Hampshire for the County of Hillsborough Southern District, the same being a court of record having a seal, and having custody of the records of the said Superior Court, do hereby certify that the attached are true copies of the Complaint and Demand of Jury Trial, Summons in a Civil Action, Return of Service, Appearance, Notice of Removal to Plaintiff Edward Masielli, and Notice of Removal to Hillsborough Superior Court in the action 226-2019-CV-00694 Edward Maselli v. Thomas Durden, Frank Lombardi, Christopher DiTullio, John Yurcak, and Nashua Police Department of said Superior Court.

In witness whereof I have hereunto set my hand
and affixed the seal of said Superior Court at
this 19th day of December A.D. 2019



Clerk of Superior Court

A handwritten signature in blue ink, appearing to read "Amy Feliciano".

Amy M. Feliciano, Deputy Clerk of Court

December 19, 2019

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
<http://www.courts.state.nh.us>

Court Name: Hillsborough Superior Court Southern District

Case Name: Edward Maselli v. Thomas Durden, et al

Case Number: 226-2019-CV-00694
 (if known)

APPEARANCE/WITHDRAWAL

APPEARANCE

Type of appearance (Select One)

☒ Appearance ☐ Limited Appearance (*Civil cases only*)

If limited appearance, scope of representation:

Select One:

☐ As Counsel for:

Thomas Durden	28 Officer James Roche Drive, Nashua, NH 03062	
Frank Lombardi	28 Officer James Roche Drive, Nashua, NH 03062	
(Name)	(Address)	(Telephone Number)
Christopher Ditullio	28 Officer James Roche Drive, Nashua, NH 03062	
(Name)	(Address)	(Telephone Number)
John Yurcak	28 Officer James Roche Drive, Nashua, NH 03062	
(Name) Nashua Police Department	(Address) 28 Officer James Roche Drive, Nashua, NH 03062	(Telephone Number)

☐ I will represent myself (*self-represented*)

WITHDRAWAL

As Counsel for _____

Type of Representation: (Select one)

☐ Appearance:
☐ Notice of withdrawal was sent to my client(s) on: _____ at the following address:

☐ A motion to withdraw is being filed.

☐ Limited Appearance: (Select one)

☐ I am withdrawing my limited appearance as I have completed the terms of the limited representation.

☐ The terms of limited representation have not been completed. A motion to withdraw is being filed.



True Copy Attest

Marshall A. Buttrick
 Marshall A. Buttrick, Clerk of Court
 December 19, 2019

Case Number: 226-2019-CV-00694

APPEARANCE/WITHDRAWAL

For non e-filed cases:

I state that on this date I am ☐ mailing by U.S. mail, or ☐ Email (only when there is a prior agreement of the parties to use this method), or ☐ hand delivering a copy of this document to:

Other party

Other party's attorney

OR

For e-filed cases:

☒ I state that on this date I am sending a copy of this document as required by the rules of the court. I am electronically sending this document through the court's electronic filing system to all attorneys and to all other parties who have entered electronic service contacts (email addresses) in this case. I am mailing or hand-delivering copies to all other interested parties.

Brian J.S. Cullen, Esquire

Name of Filer

CullenCollimore, pllc

11265

Law Firm, if applicable

Bar ID # of attorney

10 East Pearl Street

Address

Nashua

NH

03060

City

State

Zip code

/s/ Brian J.S. Cullen

12/18/2019

Signature of Filer

Date

(603) 881-5500

Telephone

bcullen@cullencollimore.com

E-mail

THE STATE OF NEW HAMPSHIRE

HILLSBOROUGH
SOUTHERN DISTRICTSUPERIOR COURT
COURT ()
JURY (X)

Edward Maselli

v.

Thomas Durden,
Frank Lombardi,
Christopher Ditullio,
John Yurcak
And
Nashua Police Department

True Copy Attest

Marshall A. Buttrick

Marshall A. Buttrick, Clerk of Court

December 19, 2019

Docket No. 226-2019-CV-00694

NOTICE OF REMOVAL TO HILLSBOROUGH SUPERIOR COURTTo: Marshall A. Buttrick, Clerk
Hillsborough Superior Court
Southern District
30 Spring Street
Nashua, NH 03060

Please take notice that Defendants Thomas Durden, Frank Lombardi, Christopher Ditullio, John Yurcak and the City of Nashua have this day filed in the Clerk's Office of the United States District Court for the District of New Hampshire, Concord, New Hampshire a Notice of Removal, as shown by copy attached.

Under 28 U.S.C. §1446, the attached Notice of Removal effects removal of this action to the United States District Court for the District of New Hampshire "and the State court shall proceed no further unless and until the case is remanded."

Respectfully submitted,

**THOMAS DURDEN,
FRANK LOMBARDI,
CHRISTOPHER DITULLIO,
JOHN YURCAK and
THE CITY OF NASHUA**

By their attorneys

CullenCollimore, pllc

Dated: December 18, 2019

By: /s/ Brian J.S. Cullen

Brian J. S. Cullen
NH Bar No. 11265
10 East Pearl Street
Nashua, NH 03060
(603) 881-5500
bcullen@cullencollimore.com

CERTIFICATE OF SERVICE

I certify that a copy of this filing was served via the Court's ECF filing system upon counsel of record.

Dated: December 18, 2019

By: /s/ Brian J.S. Cullen

Brian J.S. Cullen

THE STATE OF NEW HAMPSHIRE

HILLSBOROUGH
SOUTHERN DISTRICTSUPERIOR COURT
COURT ()
JURY (X)

Edward Maselli

v.

Thomas Durden,
Frank Lombardi,
Christopher Ditullio,
John Yurcak

And

Nashua Police Department



True Copy Attest

Marshall A. Buttrick

Marshall A. Buttrick, Clerk of Court

December 19, 2019

Docket No. 226-2019-CV-00694

NOTICE OF REMOVAL TO PLAINTIFF EDWARD MASIELLITo: Sven D. Wiberg
2456 Lafayette Road, Suite 7
Portsmouth, NH 03801
(603) 686-5454

Defendants, Thomas Durden, Frank Lombardi, Christopher Ditullio, John Yurcak and the City of Nashua, hereby gives notice that the civil action entitled *Edward Masielli v. Thomas Durden, et al.*, Hillsborough Superior Court, Southern District, has been removed to the United States District Court for the District of New Hampshire.

Respectfully submitted,

**THOMAS DURDEN,
FRANK LOMBARDI,
CHRISTOPHER DITULLIO,
JOHN YURCAK and
THE CITY OF NASHUA**

By their attorneys

CullenCollimore, pllc

Dated: December 18, 2019

By: /s/ Brian J.S. Cullen

Brian J. S. Cullen
NH Bar No. 11265
10 East Pearl Street
Nashua, NH 03060
(603) 881-5500
bcullen@cullencollimore.com

CERTIFICATE OF SERVICE

I certify that a copy of this filing was served via the Court's ECF filing system upon counsel of record.

Dated: December 18, 2019

By: /s/ Brian J.S. Cullen

Brian J.S. Cullen

HILLSBOROUGH COUNTY SHERIFF'S OFFICE
329 MAST ROAD
GOFFSTOWN, NH 03045

RETURN OF SERVICE

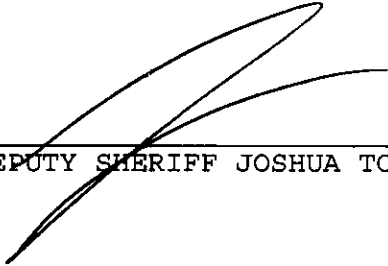
SHERIFF WRIT 19-10688-CP
HILLSBOROUGH COUNTY SC, SOUTH

226-2019-CV-00694

EDWARD MASELLI V. NASHUA POLICE DEPARTMENT & DITULLIO, C & DURDEN, T &
LOMBARD

11/19/2019

I SUMMONED THE WITHIN NAMED NASHUA POLICE DEPARTMENT
BY GIVING IN HAND TO ANDREW KARLIS, SGT., OFFICER IN CHARGE FOR THE WITHIN
NAMED, BEING AT 28 OFFICER JAMES ROCHE DR NASHUA, NH, AN ATTESTED COPY OF
THIS SUMMONS AT 10:20am.


DEPUTY SHERIFF JOSHUA TOMS



True Copy Attest

Marshall A. Buttrick

Marshall A. Buttrick, Clerk of Court

December 19, 2019

HILLSBOROUGH COUNTY SHERIFF'S OFFICE

329 MAST ROAD

GOFFSTOWN, NH 03045

RETURN OF SERVICE

SHERIFF WRIT 19-10688-CP
HILLSBOROUGH COUNTY SC, SOUTH

EDWARD MASELLI V. NASHUA POLICE DEPARTMENT & DITULLIO, C & DURDEN, T &
LOMBARD

11/19/2019

I SUMMONED THE WITHIN NAMED CHRISTOPHER DITULLIO
BY GIVING IN HAND TO ANDREW KARLIS, SGT., OFFICER IN CHARGE FOR THE WITHIN
NAMED, BEING AT 28 OFFICER JAMES ROCHE DR NASHUA, NH, AN ATTESTED COPY OF
THIS SUMMONS AT 10:21am.



DEPUTY SHERIFF JOSHUA TOMS

HILLSBOROUGH COUNTY SHERIFF'S OFFICE

329 MAST ROAD

GOFFSTOWN, NH 03045

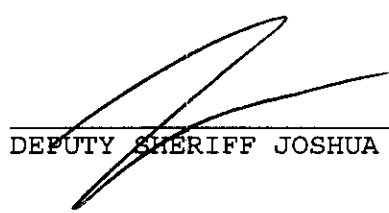
RETURN OF SERVICE

SHERIFF WRIT 19-10688-CP
HILLSBOROUGH COUNTY SC, SOUTH

EDWARD MASELLI V. NASHUA POLICE DEPARTMENT & DITULLIO, C & DURDEN, T &
LOMBARD

11/19/2019

I SUMMONED THE WITHIN NAMED THOMAS DURDEN
BY GIVING IN HAND TO ANDREW KARLIS, SGT., OFFICER IN CHARGE FOR THE WITHIN
NAMED, BEING AT 28 OFFICER JAMES ROCHE DR NASHUA, NH, AN ATTESTED COPY OF
THIS SUMMONS AT 10:22am.



DEPUTY SHERIFF JOSHUA TOMS

HILLSBOROUGH COUNTY SHERIFF'S OFFICE

329 MAST ROAD

GOFFSTOWN, NH 03045

RETURN OF SERVICE

SHERIFF WRIT 19-10688-CP
HILLSBOROUGH COUNTY SC, SOUTH

EDWARD MASELLI V. NASHUA POLICE DEPARTMENT & DITULLIO, C & DURDEN, T &
LOMBARD

11/19/2019

I SUMMONED THE WITHIN NAMED **FRANK LOMBARDI** BY GIVING IN HAND TO ANDREW
KARLIS, SGT, OFFICER IN CHARGE FOR THE WITHIN NAMED, BEING AT 28 OFFICER
JAMES ROCHE DR NASHUA, NH, AN ATTESTED COPY OF THIS SUMMONS AT 10:23am.



DEPUTY SHERIFF JOSHUA TOMS

HILLSBOROUGH COUNTY SHERIFF'S OFFICE

329 MAST ROAD

GOFFSTOWN, NH 03045

RETURN OF SERVICE

SHERIFF WRIT 19-10688-CP
HILLSBOROUGH COUNTY SC, SOUTH

EDWARD MASELLI V. NASHUA POLICE DEPARTMENT & DITULLIO, C & DURDEN, T &
LOMBARD

11/19/2019

I SUMMONED THE WITHIN NAMED JOHN YURCAK BY GIVING IN HAND TO ANDREW
KARLIS, ESQ., OFFICER IN CHARGE FOR THE WITHIN NAMED, BEING AT 28 OFFICER
JAMES ROCHE DR NASHUA, NH, AN ATTESTED COPY OF THIS SUMMONS AT 10:24am.



DEPUTY SHERIFF JOSHUA TOMS

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
SUPERIOR COURT**

Hillsborough Superior Court Southern District
30 Spring Street
Nashua NH 03060

Telephone: 1-855-212-1234
TTY/TDD Relay: (800) 735-2964
<http://www.courts.state.nh.us>

SUMMONS IN A CIVIL ACTION



Case Name: **Edward Maselli v Thomas Durden, et al**
Case Number: **226-2019-CV-00694**

Date Complaint Filed: October 02, 2019

A Complaint has been filed against Christopher DiTullio; Thomas Durden; Frank Lombardi; Nashua Police Department; John Yurcak in this Court. A copy of the Complaint is attached.

The Court ORDERS that ON OR BEFORE:

November 22, 2019	Edward Maselli shall have this Summons and the attached Complaint served upon Christopher DiTullio; Thomas Durden; Frank Lombardi; Nashua Police Department; John Yurcak by in hand or by leaving a copy at his/her abode, or by such other service as is allowed by law.
December 13, 2019	Edward Maselli shall electronically file the return(s) of service with this Court. Failure to do so may result in this action being dismissed without further notice.
30 days after Defendant is served	Christopher DiTullio; Thomas Durden; Frank Lombardi; Nashua Police Department; John Yurcak must electronically file an Appearance and Answer or other responsive pleading form with this Court. A copy of the Appearance and Answer or other responsive pleading must be sent electronically to the party/parties listed below.

Notice to Christopher DiTullio; Thomas Durden; Frank Lombardi; Nashua Police Department; John Yurcak: If you do not comply with these requirements you will be considered in default and the Court may issue orders that affect you without your input.

Send copies to:

Sven David Wiberg, ESQ	Wiberg Law Office PLLC 2456 Lafayette Rd Ste 11 Portsmouth NH 03801
Thomas Durden	20 Chadwick Circle Nashua NH 03062
Frank Lombardi	28 Officer James Roche Drive Nashua NH 03062
Christopher DiTullio	367 Millstone Avenue Manchester NH 03102
John Yurcak	39 Stephens Road Wilton NH 03086
Nashua Police Department	28 Officer James Roche Drive Nashua NH 03062

BY ORDER OF THE COURT

October 08, 2019

Marshall A. Buttrick
Clerk of Court

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
SUPERIOR COURT**

Hillsborough Superior Court Southern District
30 Spring Street
Nashua NH 03060

Telephone: 1-855-212-1234
TTY/TDD Relay: (800) 735-2964
<http://www.courts.state.nh.us>

NOTICE TO DEFENDANT

Case Name: **Edward Maselli v Thomas Durden, et al**
Case Number: **226-2019-CV-00694**

You have been served with a Complaint which serves as notice that this legal action has been filed against you in the **Hillsborough Superior Court Southern District**. Review the Complaint to see the basis for the Plaintiff's claim.

Each Defendant is required to electronically file an Appearance and Answer 30 days after service. You may register and respond on any private or public computer. For your convenience, there is also a computer available in the courthouse lobby.

If you are working with an attorney, they will guide you on the next steps. If you are going to represent yourself in this action, go to the court's website: www.courts.state.nh.us, select the Electronic Services icon and then select the option for a self-represented party.

1. Complete the registration/log in process. Click Register and follow the prompts.
2. After you register, click Start Now. Select **Hillsborough Superior Court Southern District** as the location.
3. Select "I am filing into an existing case". Enter **226-2019-CV-00694** and click Next.
4. When you find the case, click on the link and follow the instructions on the screen. On the "What would you like to file?" screen, select "File a Response to Civil Complaint". Follow the instructions to complete your filing.
5. Review your Response before submitting it to the court.

IMPORTANT: After receiving your response and other filings the court will send notifications and court orders electronically to the email address you provide.

A person who is filing or defending against a Civil Complaint will want to be familiar with the Rules of the Superior Court, which are available on the court's website: www.courts.state.nh.us.

Once you have registered and responded to the summons, you can access documents electronically filed by going to <https://odypa.nhecourt.us/portal> and following the instructions in the User Guide. In that process you will register, validate your email, request access and approval to view your case. After your information is validated by the court, you will be able to view case information and documents filed in your case.

If you have questions regarding this process, please contact the court at 1-855-212-1234.

THE STATE OF NEW HAMPSHIRE

HILLSBOROUGH, ss

SUPERIOR COURT

SOUTHERN DISTRICT

Docket No. 226-2019-CV-00694

EDWARD MASELLI

Plaintiff,

v.

**THOMAS DURDEN, FRANK LOMBARDI,
CHRISTOPHER DITULLIO, JOHN YURCAK,
And NASHUA POLICE DEPARTMENT,
Defendants.**

COMPLAINT AND DEMAND FOR JURY TRIAL

JURISDICTION

1. Edward Maselli, Plaintiff, resides at 58 Bishop Allen Drive, Cambridge, County of Middlesex, State of Massachusetts.
2. Defendant, Thomas Durden, is a police officer with the Nashua Police Department whose business address is 28 Officer James Roche Drive, Nashua, County of Hillsborough, New Hampshire. Upon information and belief, his home address is 20 Chadwick Circle, Nashua, County of Hillsborough, New Hampshire.
3. Defendant, Frank Lombardi, is a police officer with the Nashua Police Department whose business address is 28 Officer James Roche Drive, Nashua, County of Hillsborough, New Hampshire. At present is home address is unknown to Plaintiff.
4. Defendant, Christopher DiTullio, is a police officer with the Nashua Police Department whose business address is 28 Officer James Roche Drive, Nashua, County of Hillsborough, New Hampshire. Upon information and belief, his home address is 367 Millstone Avenue, Manchester, County of Hillsborough, New Hampshire.

5. Defendant, John Yurcak, is a police officer with the Nashua Police Department whose business address is 28 Officer James Roche Drive, Nashua, County of Hillsborough, New Hampshire. Upon information and belief, his home address is 39 Stephens Road, Wilton, New Hampshire.

6. Defendant Nashua Police Department (“NPD”) is a New Hampshire law enforcement agency with a business address at 28 Officer James Roche Drive, Nashua, County of Hillsborough, New Hampshire.

7. This action arises from an unlawful entry, trespass, assault, arrest, and prosecution of Plaintiff by the individual defendants which occurred on or about October 2, 2016 at Plaintiff’s then home at 51 Kinsley Street in Nashua, New Hampshire.

FACTS

8. On October 2, 2016, Plaintiff, was at home at his home on Kinsley Street in Nashua. He was at that time not engaged in any illegal activity.

9. At around 8:20 in the evening, the individual defendants, employees of NPD, without consent or permission and without a warrant to arrest anyone, broke into the house, going through locked doors. They then assaulted Plaintiff, throwing him to the ground and injuring him using excessive force. They handcuffed and arrested him without a warrant and without an exception to the warrant requirements of our State and Federal Constitutions.

10. They subsequently charged him with multiple crimes. He was prosecuted over the next several years, during which time, some charges were dropped. He was eventually acquitted of all remaining charges by a jury in this Court on July 31, 2019.

11. As a result of defendants’ actions, Plaintiff was caused great injury, including physical and mental injuries, monetary damage, and harm to his reputation.

COUNT ONE AGAINST ALL DEFENDANTS FOR VIOLATION OF THE FOURTH AMENDMENT TO THE UNITED STATES CONSTITUTION (Excessive Force)

12. Plaintiff realleges the allegations set forth in paragraph 1 through 11 and incorporates the same herein by reference as though fully set forth.

13. Plaintiff invokes the jurisdiction of this Court under 42 USC §1983.

14. The conduct of the defendants amounts to a deliberate violation of the plaintiff’s rights under the Fourth Amendment in that while he was seized by the defendants, they

15. As a proximate result, the plaintiff has experienced pain and suffering, including severe physical injuries, severe emotional distress, has suffered a loss of earnings and earning capacity, and has incurred, and will incur in the future, medical expenses for future care and treatment.

16. By engaging in the conduct alleged above the defendants acted wantonly, maliciously and oppressively, and by reason thereof the plaintiff demands enhanced compensatory damages.

**COUNT TWO AGAINST ALL DEFENDANTS FOR VIOLATION OF THE
FOURTH AMENDMENT
TO THE UNITED STATES CONSTITUTION
(Failure to Intervene)**

17. The plaintiff realleges the allegations set forth in paragraphs 1 through 16 and incorporates the same herein by reference as though fully set forth herein.

18. The conduct of the defendants amounts to a deliberate violation of the plaintiff's rights under the Fourth Amendment in that the defendants, who were all present at the scene of the arrest, failed to take reasonable steps to protect the plaintiff while another officer or officers were engaged in the use of excessive force, as described above.

19. As a result of defendants' actions, Plaintiff was caused great injury, including physical and mental injuries, monetary damage, and harm to his reputation.

**COUNT THREE AGAINST ALL DEFENDANTS FOR VIOLATION OF THE
FOURTEENTH ADMENDMENT TO THE UNITED STATES
(Substantive Due Process)**

20. The plaintiff realleges the allegations set forth in paragraphs 1 through 19 and incorporates the same herein by reference as though fully set forth.

21. The conduct of the defendants amounts to a deliberate violation of the plaintiff's rights under the Fourteenth Amendment, in that the defendants actions, as well as their failure to act, as described above and is so extreme and outrageous as to shock the conscience.

22. As a result of defendants' actions, Plaintiff was caused great injury, including physical and mental injuries, monetary damage, and harm to his reputation.

**COUNT FOUR AGAINST ALL DEFENDANTS
INTENTIONALINFLECTION OF EMOTIONAL DISTRESS**

23. The plaintiff realleges the allegations set forth in paragraphs 1 through 22 and incorporates the same herein by reference as though fully set forth.

24. The actions of the defendants amount to extreme and outrageous conduct, intentionally and/or recklessly designed to cause the plaintiff harm, and did in fact cause him severe emotional distress.

25. As a result of defendant's actions, Plaintiff was caused great injury, including physical and mental injuries, monetary damage, and harm to his reputation.

COUNT FIVE AGAINST ALL DEFENDANTS FOR BATTERY

26. The plaintiff realleges the allegations set forth in paragraphs 1 through 25 and incorporates the same herein by reference as though fully set forth.

27. The actions of the defendants amount to an intentional and/or reckless conduct designed to cause harmful or offensive contact to the plaintiff and such contact did in fact occur.

28. As a result of defendants' actions, Plaintiff was caused great injury, including physical and mental injuries, monetary damage, and harm to his reputation.

COUNT SIX AGAINST ALL DEFENDANTS FOR NEGLIGENCE

29. The plaintiff realleges the allegations set forth in paragraphs 1 through 28 and incorporates the same herein by reference as though fully set forth.

30. The defendants owed the plaintiff a duty of reasonable care in the performance of their law enforcement duties and obligations, including but not limited to adherence to all applicable laws and the observation of the constitutional rights of all citizens.

31. The defendant NPD breached the duty of care it owed to the plaintiff, under a theory of *respondeat superior*, in that agents and/or employees, in the performance of their law enforcement duties and obligations, failed to abide by applicable laws and violated the constitutional rights of the plaintiff, as alleged above.

32. As a result of defendants' actions, Plaintiff was caused great injury, including physical and mental injuries, monetary damage, and harm to his reputation.

COUNT SEVEN AGAINST ALL DEFENDANTS FOR TRESPASS

33. The plaintiff realleges the allegations set forth in paragraphs 1 through 32 and

34. In intentionally entering the Plaintiff's locked home with force, without a warrant, without his permission, and against his will, defendants committed unlawful intrusion or invasion of his property.

35. As a result of defendants' actions, Plaintiff was caused great injury, including physical and mental injuries, monetary damage, and harm to his reputation.

WHEREFORE, the plaintiff prays that he be awarded his damages in an amount within the jurisdictional limits of this Court, including enhanced compensatory damages, plus interest, costs and attorney's fees, and such other and further relief as the Court deems appropriate.

JURY DEMAND

Plaintiff demands trial by jury on all issues so triable.

Respectfully submitted,
Edward Maselli,
By his attorney,

/s/ Sven D. Wiberg

Sven D. Wiberg
NH Bar No. 8238
Wiberg Law Office, PLLC
2456 Lafayette Road, Suite 11
Portsmouth, NH 03801
(603) 686-5454
sven@nhcriminaldefense.com

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
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True Copy Attest SUMMONS IN A CIVIL ACTION

Marshall A. Buttrick

Marshall A. Buttrick, Clerk of Court

December 19, 2019



Case Name: **Edward Maselli v Thomas Durden, et al**

Case Number: **226-2019-CV-00694**

Date Complaint Filed: October 02, 2019

A Complaint has been filed against Christopher DiTullio; Thomas Durden; Frank Lombardi; Nashua Police Department; John Yurcak in this Court. A copy of the Complaint is attached.

The Court ORDERS that ON OR BEFORE:

November 22, 2019	Edward Maselli shall have this Summons and the attached Complaint served upon Christopher DiTullio; Thomas Durden; Frank Lombardi; Nashua Police Department; John Yurcak by in hand or by leaving a copy at his/her abode, or by such other service as is allowed by law.
December 13, 2019	Edward Maselli shall electronically file the return(s) of service with this Court. Failure to do so may result in this action being dismissed without further notice.
30 days after Defendant is served	Christopher DiTullio; Thomas Durden; Frank Lombardi; Nashua Police Department; John Yurcak must electronically file an Appearance and Answer or other responsive pleading form with this Court. A copy of the Appearance and Answer or other responsive pleading must be sent electronically to the party/parties listed below.

Notice to Christopher DiTullio; Thomas Durden; Frank Lombardi; Nashua Police Department; John Yurcak: If you do not comply with these requirements you will be considered in default and the Court may issue orders that affect you without your input.

Send copies to:

Sven David Wiberg, ESQ	Wiberg Law Office PLLC 2456 Lafayette Rd Ste 11 Portsmouth NH 03801
Thomas Durden	20 Chadwick Circle Nashua NH 03062
Frank Lombardi	28 Officer James Roche Drive Nashua NH 03062
Christopher DiTullio	367 Millstone Avenue Manchester NH 03102
John Yurcak	39 Stephens Road Wilton NH 03086
Nashua Police Department	28 Officer James Roche Drive Nashua NH 03062

BY ORDER OF THE COURT

October 08, 2019

Marshall A. Buttrick
Clerk of Court

(126921)

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
SUPERIOR COURT**

Hillsborough Superior Court Southern District
30 Spring Street
Nashua NH 03060

Telephone: 1-855-212-1234
TTY/TDD Relay: (800) 735-2964
<http://www.courts.state.nh.us>

**EDWARD MASELLI
INSTRUCTIONS FOR SERVICE
BY THE SHERIFF'S DEPARTMENT**

Case Name: **Edward Maselli v Thomas Durden, et al**
Case Number: **226-2019-CV-00694**

Instructions for: Edward Maselli

The attached Summons must be sent to the Sheriff's Department for service. Service must be completed on or before **November 22, 2019**.

Further action is required by you

You must:

- **Print two copies of the Summons per defendant**
- **Print two copies of the Notice to Defendant per defendant**
- **Print two copies of the Complaint filed with the Court per defendant**
- **Make two packets for service. Each packet should contain:**
 - **One Summons**
 - **Once Notice for Defendant**
 - **One Complaint filed with the Court**
- **Mail or hand deliver the packets to the Sheriff's Department in the county where each defendant resides.**

Sheriff Departments in New Hampshire:

[Belknap County Sheriff's Department:](#)

[Carroll County Sheriff's Department:](#)

[Cheshire County Sheriff's Department:](#)

[Coos County Sheriff's Department:](#)

[Grafton County Sheriff's Department:](#)

[Hillsborough County Sheriff's Department:](#)

[Merrimack County Sheriff's Department:](#)

[Rockingham County Sheriff's Department:](#)

[Strafford County Sheriff's Department:](#)

[Sullivan County Sheriff's Department:](#)

If one or more of the parties resides out of state, please click [here](#) for the requirements

Service must be made upon the defendant before **November 22, 2019**.

If the Sheriff is unable to complete service by **November 22, 2019** you will receive a "Notice of Incomplete Service" from the Sheriff's Department. You may request that new paperwork be issued by electronically filing a Request for Documents. There is a fee for this request.

The Sheriff will mail the 'Return of Service' to you. You **MUST** electronically file the 'Return of Service' with the court by December 13, 2019.

If service is not made as directed, no further action will occur and the case may be dismissed by the court.

Important Service Information for Sheriff

Do not file this with the court

Provide this information to the Sheriff's Department.

See Instructions for Service for more information.

PLEASE PRINT CLEARLY

Date: _____

Case #: _____

Who are you requesting to be served?

Please provide whatever information you know

Name: _____

Address for service (no P.O. boxes):

_____ APT #: _____

Home phone #: _____ Cell phone #: _____

Sex: ☐ Male ☐ Female Race: _____

Last 4 digits of SS#: xxx-xx- _____ D.O.B. _____

Work name & address:

Special instructions for service (i.e. directions, best time to serve, cautions, etc.):

Vehicle description/license plate:

Your Information:

Name (please print): _____

Residential address:

Mailing address:

Phone number to contact you during business hours:

_____ Alternate #: _____

Signature

◆IN-HAND SERVICE WILL INCUR EXTRA COSTS DUE TO ADDITIONAL TRAVEL◆

SHERIFF OFFICE USE ONLY: (This will vary by Sheriff's Office)

Fees Paid: \$ _____	Cash #: _____	Check#: _____
Id#: _____	Waiver: _____	Money Order#: _____
Sheriff File # _____	Authorization #: _____	Credit Card: _____

Instructions for filing the Return of Service:

If you are working with an attorney, they will guide you on the next steps. If you are going to represent yourself in this action, go to the court's website: www.courts.state.nh.us, select the Electronic Services icon and then select the option for a self-represented party.

1. Select "I am filing into an existing case". Enter 226-2019-CV-00694 and click Next.
2. When you find the case, click on the link follow the instructions on the screen. On the "What would you like to file?" screen, select "File Other Document" and choose "Return of Service".
3. Scan the Return of Service packet and follow the instructions in the electronic filing program to upload the Return of Service to complete your filing.
4. If the sheriff was unable to serve the paperwork, you can request new paperwork by filing a Request for Documents. On the "What would you like to file?" screen, select "File Other Document" and choose "Request for Reissued Summons" from the menu and upload the Request for Documents form.

FAILURE TO FILE THESE DOCUMENTS MAY RESULT IN YOUR CASE BEING DISMISSED.

October 08, 2019
Date

Marshall A. Buttrick
Clerk of Court

You can access documents electronically filed through our Case Access Portal by going to <https://odypa.nhecourt.us/portal> and following the instructions in the User Guide. In that process you will register, validate your email, request access and approval to view your case. After your information is validated by the court, you will be able to view case information and documents filed in your case.

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
SUPERIOR COURT**

Hillsborough Superior Court Southern District
30 Spring Street
Nashua NH 03060

Telephone: 1-855-212-1234
TTY/TDD Relay: (800) 735-2964
<http://www.courts.state.nh.us>

NOTICE TO DEFENDANT

Case Name: **Edward Maselli v Thomas Durden, et al**
Case Number: **226-2019-CV-00694**

You have been served with a Complaint which serves as notice that this legal action has been filed against you in the **Hillsborough Superior Court Southern District**. Review the Complaint to see the basis for the Plaintiff's claim.

Each Defendant is required to electronically file an Appearance and Answer 30 days after service. You may register and respond on any private or public computer. For your convenience, there is also a computer available in the courthouse lobby.

If you are working with an attorney, they will guide you on the next steps. If you are going to represent yourself in this action, go to the court's website: www.courts.state.nh.us, select the Electronic Services icon and then select the option for a self-represented party.

1. Complete the registration/log in process. Click Register and follow the prompts.
2. After you register, click Start Now. Select **Hillsborough Superior Court Southern District** as the location.
3. Select "I am filing into an existing case". Enter **226-2019-CV-00694** and click Next.
4. When you find the case, click on the link and follow the instructions on the screen. On the "What would you like to file?" screen, select "File a Response to Civil Complaint". Follow the instructions to complete your filing.
5. Review your Response before submitting it to the court.

IMPORTANT: After receiving your response and other filings the court will send notifications and court orders electronically to the email address you provide.

A person who is filing or defending against a Civil Complaint will want to be familiar with the Rules of the Superior Court, which are available on the court's website: www.courts.state.nh.us.

Once you have registered and responded to the summons, you can access documents electronically filed by going to <https://odypa.nhecourt.us/portal> and following the instructions in the User Guide. In that process you will register, validate your email, request access and approval to view your case. After your information is validated by the court, you will be able to view case information and documents filed in your case.

If you have questions regarding this process, please contact the court at 1-855-212-1234.

THE STATE OF NEW HAMPSHIRE**HILLSBOROUGH, ss****SUPERIOR COURT****SOUTHERN DISTRICT**

Docket No. 226-2019-CV-00694

EDWARD MASELLI**Plaintiff,****v.****THOMAS DURDEN, FRANK LOMBARDI,
CHRISTOPHER DITULLIO, JOHN YURCAK,
And NASHUA POLICE DEPARTMENT,
Defendants.****True Copy Attest***Marshall A. Buttrick*

Marshall A. Buttrick, Clerk of Court

December 19, 2019

COMPLAINT AND DEMAND FOR JURY TRIAL**JURISDICTION**

1. Edward Maselli, Plaintiff, resides at 58 Bishop Allen Drive, Cambridge, County of Middlesex, State of Massachusetts.
2. Defendant, Thomas Durden, is a police officer with the Nashua Police Department whose business address is 28 Officer James Roche Drive, Nashua, County of Hillsborough, New Hampshire. Upon information and belief, his home address is 20 Chadwick Circle, Nashua, County of Hillsborough, New Hampshire.
3. Defendant, Frank Lombardi, is a police officer with the Nashua Police Department whose business address is 28 Officer James Roche Drive, Nashua, County of Hillsborough, New Hampshire. At present is home address is unknown to Plaintiff.
4. Defendant, Christopher DiTullio, is a police officer with the Nashua Police Department whose business address is 28 Officer James Roche Drive, Nashua, County of Hillsborough, New Hampshire. Upon information and belief, his home address is 367 Millstone Avenue, Manchester, County of Hillsborough, New Hampshire.

5. Defendant, John Yurcak, is a police officer with the Nashua Police Department whose business address is 28 Officer James Roche Drive, Nashua, County of Hillsborough, New Hampshire. Upon information and belief, his home address is 39 Stephens Road, Wilton, New Hampshire.

6. Defendant Nashua Police Department (“NPD”) is a New Hampshire law enforcement agency with a business address at 28 Officer James Roche Drive, Nashua, County of Hillsborough, New Hampshire.

7. This action arises from an unlawful entry, trespass, assault, arrest, and prosecution of Plaintiff by the individual defendants which occurred on or about October 2, 2016 at Plaintiff’s then home at 51 Kinsley Street in Nashua, New Hampshire.

FACTS

8. On October 2, 2016, Plaintiff, was at home at his home on Kinsley Street in Nashua. He was at that time not engaged in any illegal activity.

9. At around 8:20 in the evening, the individual defendants, employees of NPD, without consent or permission and without a warrant to arrest anyone, broke into the house, going through locked doors. They then assaulted Plaintiff, throwing him to the ground and injuring him using excessive force. They handcuffed and arrested him without a warrant and without an exception to the warrant requirements of our State and Federal Constitutions.

10. They subsequently charged him with multiple crimes. He was prosecuted over the next several years, during which time, some charges were dropped. He was eventually acquitted of all remaining charges by a jury in this Court on July 31, 2019.

11. As a result of defendants’ actions, Plaintiff was caused great injury, including physical and mental injuries, monetary damage, and harm to his reputation.

COUNT ONE AGAINST ALL DEFENDANTS FOR VIOLATION OF THE FOURTH AMENDMENT TO THE UNITED STATES CONSTITUTION

(Excessive Force)

12. Plaintiff realleges the allegations set forth in paragraph 1 through 11 and incorporates the same herein by reference as though fully set forth.

13. Plaintiff invokes the jurisdiction of this Court under 42 USC §1983.

14. The conduct of the defendants amounts to a deliberate violation of the plaintiff’s rights under the Fourth Amendment in that while he was seized by the defendants, they

15. As a proximate result, the plaintiff has experienced pain and suffering, including severe physical injuries, severe emotional distress, has suffered a loss of earnings and earning capacity, and has incurred, and will incur in the future, medical expenses for future care and treatment.

16. By engaging in the conduct alleged above the defendants acted wantonly, maliciously and oppressively, and by reason thereof the plaintiff demands enhanced compensatory damages.

COUNT TWO AGAINST ALL DEFENDANTS FOR VIOLATION OF THE
FOURTH AMENDMENT
TO THE UNITED STATES CONSTITUTION
(Failure to Intervene)

17. The plaintiff realleges the allegations set forth in paragraphs 1 through 16 and incorporates the same herein by reference as though fully set forth herein.

18. The conduct of the defendants amounts to a deliberate violation of the plaintiff's rights under the Fourth Amendment in that the defendants, who were all present at the scene of the arrest, failed to take reasonable steps to protect the plaintiff while another officer or officers were engaged in the use of excessive force, as described above.

19. As a result of defendants' actions, Plaintiff was caused great injury, including physical and mental injuries, monetary damage, and harm to his reputation.

COUNT THREE AGAINST ALL DEFENDANTS FOR VIOLATION OF THE
FOURTEENTH ADMENDMENT TO THE UNITED STATES
(Substantive Due Process)

20. The plaintiff realleges the allegations set forth in paragraphs 1 through 19 and incorporates the same herein by reference as though fully set forth.

21. The conduct of the defendants amounts to a deliberate violation of the plaintiff's rights under the Fourteenth Amendment, in that the defendants actions, as well as their failure to act, as described above and is so extreme and outrageous as to shock the conscience.

22. As a result of defendants' actions, Plaintiff was caused great injury, including physical and mental injuries, monetary damage, and harm to his reputation.

COUNT FOUR AGAINST ALL DEFENDANTS
INTENTIONALINFLICTION OF EMOTIONAL DISTRESS

23. The plaintiff realleges the allegations set forth in paragraphs 1 through 22 and incorporates the same herein by reference as though fully set forth.

24. The actions of the defendants amount to extreme and outrageous conduct, intentionally and/or recklessly designed to cause the plaintiff harm, and did in fact cause him severe emotional distress.

25. As a result of defendant's actions, Plaintiff was caused great injury, including physical and mental injuries, monetary damage, and harm to his reputation.

COUNT FIVE AGAINST ALL DEFENDANTS FOR BATTERY

26. The plaintiff realleges the allegations set forth in paragraphs 1 through 25 and incorporates the same herein by reference as though fully set forth.

27. The actions of the defendants amount to an intentional and/or reckless conduct designed to cause harmful or offensive contact to the plaintiff and such contact did in fact occur.

28. As a result of defendants' actions, Plaintiff was caused great injury, including physical and mental injuries, monetary damage, and harm to his reputation.

COUNT SIX AGAINST ALL DEFENDANTS FOR NEGLIGENCE

29. The plaintiff realleges the allegations set forth in paragraphs 1 through 28 and incorporates the same herein by reference as though fully set forth.

30. The defendants owed the plaintiff a duty of reasonable care in the performance of their law enforcement duties and obligations, including but not limited to adherence to all applicable laws and the observation of the constitutional rights of all citizens.

31. The defendant NPD breached the duty of care it owed to the plaintiff, under a theory of *respondeat superior*, in that agents and/or employees, in the performance of their law enforcement duties and obligations, failed to abide by applicable laws and violated the constitutional rights of the plaintiff, as alleged above.

32. As a result of defendants' actions, Plaintiff was caused great injury, including physical and mental injuries, monetary damage, and harm to his reputation.

COUNT SEVEN AGAINST ALL DEFENDANTS FOR TRESPASS

33. The plaintiff realleges the allegations set forth in paragraphs 1 through 32 and

34. In intentionally entering the Plaintiff's locked home with force, without a warrant, without his permission, and against his will, defendants committed unlawful intrusion or invasion of his property.

35. As a result of defendants' actions, Plaintiff was caused great injury, including physical and mental injuries, monetary damage, and harm to his reputation.

WHEREFORE, the plaintiff prays that he be awarded his damages in an amount within the jurisdictional limits of this Court, including enhanced compensatory damages, plus interest, costs and attorney's fees, and such other and further relief as the Court deems appropriate.

JURY DEMAND

Plaintiff demands trial by jury on all issues so triable.

Respectfully submitted,
Edward Maselli,
By his attorney,

/s/ Sven D. Wiberg

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